

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA, GREAT FALLS DIVISION

CERTIFIED TRANSCRIPT

Andrew Running Crane,)	
individually, and as Personal)	
Representative of the Estate of)	
Michael Running Crane,)	
)	
Plaintiff(s),)	
)	
vs.)	
)	No. CV-21-86-GF-BMM
United States of America, Jose)	
Ortiz, Richard Foutch and)	
AB Staffing Solutions, LLC,)	
)	
)	
Defendant(s).)	
)	
-----)	
AND ALL RELATED CROSS-CLAIMS.)	VIDEO RECORDED
-----)	

REPORTER'S DAILY TRANSCRIPT OF DEPOSITION PROCEEDINGS
AARON ROBERT BILLIN
(TOTAL OF 156 PAGES)
1102 BECK AVENUE
CODY, WYOMING
MONDAY, DECEMBER 4, 2023

DENISE KING PADDOCK
COURT REPORTER

A P P E A R A N C E S

CIVIL CASE NO. CV-21-86-GF-BMM

IN BEHALF OF THE PLAINTIFF(S):

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ALSO PRESENT:

Joel Hageman, Technical Operator

Amy Smith (remote), Insurance Adjuster

ALPHANUMERIC INDEX**DEPONENT:** **PAGE:****AARON ROBERT BILLIN**

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1 CODY, WYOMING; MONDAY, DECEMBER 4, 2023

2 TECHNICAL OPERATOR: Let the record show that this is

3 the videotaped deposition of Aaron R. Billin, MD, in the matter

4 of Aaron or -- Andrew Running Crane, individually, and as

13:00 5 personal representative of the estate of Michael Running Crane,

6 Plaintiff, vs. the United States of America, et al.,

7 Defendants, United States of America, Cross-Claimant vs.

8 AB Staffing Solutions, LLC, Cross-Defendant, in the

9 United States District Court for the district of Montana,

13:00 10 Great Falls Division, Cause No. CV-21-86-GF-BMM.

11 The date today is December 4th, 2023.

12 The time on the video monitor is 1:00 p.m.

13 My name is Joel Hageman.

14 I am the videotape operator today.

13:00 15 The court reporter today is Denise King Paddock.

16 Counsel, please voice identify yourselves and state

17 whom you represent.

18 MS. HAUSBECK: Liz Hausbeck on behalf of AB Staffing

19 and Dr. Richard Foutch.

13:01 20 MR. BECHTOLD: This is Tim Bechtold on behalf of the

21 plaintiff.

22 MS. CZIOK: Abbie Cziok on behalf of the

23 United States.

24 MR. LUSTY: Ben Lusty appearing pro hac vice for

13:01 25 Defendant Jose Ortiz.

1 TECHNICAL OPERATOR: Will the court reporter please
2 swear in the witness.

3 AARON ROBERT BILLIN,
4 deponent, called by Plaintiff(s), affirmed

13:01 5 BY MS. HAUSBECK:

6 Q. Doctor, could you state your name for the record.
7 A. Aaron Robert Billin.
8 Q. And is it okay if I call you "Dr. Billin"?
9 A. Absolutely.

13:01 10 Q. Okay; and, Dr. Billin, what is your occupation?
11 A. I am a physician.
12 Q. What kind of a "physician"?
13 A. Board certified in family practice, but have been
14 practicing emergency medicine for the last 25 years.

13:02 15 Q. Dr. Billin, where do you reside?
16 A. I reside west of Cody, Wyoming, towards Yellowstone Park.
17 Q. What town is your mailing address?
18 A. Cody, Wyoming.
19 Q. And where do you currently work?
13:02 20 A. I work at Powell Valley Healthcare in Powell, Wyoming.
21 Q. And how far is Powell from Cody?
22 A. Twenty-five to 30 miles.
23 Q. Do you also work in Cody, currently?
24 A. I am employed as the Park County health officer.
13:02 25 Q. Okay.

1 No reason to doubt that?

2 A. No reason to doubt that.

3 Q. Okay; and as far as what you've recorded in your note from
4 the medical records, Dr. Foutch's history of present illness,

14:26 5 Mr. Running Crane reported a sore throat -- true --

6 A. Correct.

7 Q. -- congestion --

8 A. Yes.

9 Q. -- productive cough -- cough --

14:26 10 A. Yes.

11 Q. -- and on physical exam, his lungs were clear?

12 A. Correct.

13 Q. Dr. Foutch ordered various imaging and labwork.

14 You would agree his orders were all appropriate and
14:26 15 reasonable?

16 A. Yes, I do.

17 Q. And the imaging was, essentially, "normal."

18 Is that your understanding?

19 A. The chest X-ray, the abdominal CT, yes.

14:26 20 Q. Was there any other imaging that was done?

21 A. I believe that was the only imaging that was done.

22 Q. Okay; and so both were essentially "normal"?

23 A. Yes.

24 Q. Okay. Let's talk a little bit about the labs and just labs
14:26 25 in general.

1 "Atelectasis" means the collapse of air cells.

2 Q. Okay. Okay. Let's go to Page 2 of your report.

3 The first full paragraph you talk about the treatment
4 and Dr. Foutch's medical decision-making.

14:38 5 Do you agree that the treatment administered or
6 prescribed by Dr. Foutch was reasonable?

7 A. I agree that the initial treatment by Dr. Foutch was -- met
8 the standard of care.

9 Q. Okay; and you would agree that he -- I've read a lot of
14:39 10 E.D. notes in my career -- you would agree that he was actually
11 pretty thorough for documentation for an E.D. provider?

12 A. I agree that he was thorough, particularly for the
13 electronic medical record used in -- used in IHS facilities.

14 Q. Do you agree his differential diagnosis was reasonable,
14:39 15 based on what he was seeing?

16 A. "Reasonable," but not "complete."

17 Q. What was "not complete" about it?

18 A. I believe he should have included significant bacterial
19 infection in his differential diagnosis.

14:39 20 Q. What do you base that opinion on, knowing that we don't
21 have the lab -- we don't have the cultural report back yet, at
22 this point in time?

23 A. The fact that the patient met the diagnostic criteria at
24 this time for sepsis, which is not known to be caused by viral
14:40 25 infections.

1 A. Yes.

2 Q. Dr. Foutch's shift ended at 6:00 a.m. --

3 You're aware of that correct? Correct?

4 A. Yes.

14:43 5 Q. -- and he transferred care over to Dr. Ortiz.

6 I'm assuming that's typical, every E.D. shift you
7 work, ultimately you're transferring care over to the next E.D.
8 provider coming on shift?

9 A. That's correct.

14:43 10 Q. And that's commonplace -- right -- to turn the care over to
11 the next E.D. provider?

12 A. Yes.

13 Q. And do you agree that Dr. Foutch's plan to observe the
14 patient for a longer period of time and then decide whether to
14:43 15 admit or discharge was reasonable?

16 A. Yes, I do.

17 Q. Okay. Do you agree with the general proposition that
18 patients have some responsibility for their own medical care?

19 A. I do.

14:44 20 Q. And while you, as the MD, you can make various
21 recommendations, but that doesn't mean a patient's always going
22 to follow your recommendations, does it?

23 A. Correct.

24 Q. And you agree that they hold some responsibility if they
14:44 25 choose not to follow the recommendations you make?

1 come and go and to not give much thought.

2 Do I think it's appropriate? No, I don't.

3 Q. That wasn't my question.

4 Do you mind reading back my question.

14:55 5 (Record read.)

6 THE DEPONENT: I believe it is the responsibility of
7 a physician to practice at an institution or emergency room
8 that has policies in place that provide for the appropriate
9 follow-up of a patient.

14:55 10 If lab results ordered during the emergency room
11 visit come back after they leave, it is the responsibility of
12 the physician to only work in emergency rooms that have an
13 adequate policy that makes sure the patient's taken care of.
14 Q. BY MS. HAUSBECK: And do you know what the typical practice
14:55 15 was at the IHS where Mr. Running Crane was seen?

16 A. I have seen their policy on the follow-up of critical lab
17 results, but I do not know anything about its implementation in
18 any way.

19 Q. Okay. So going back to my question that she just read, so
14:55 20 is it your testimony, belief and understanding that a doc -- an
21 E.R. doc who goes off shift has the responsibility to follow up
22 on every test he may have ordered, after he leaves for the day?

23 A. Not to follow up personally, but to be confident that that
24 patient will be followed up under institutional policies that
14:56 25 do their best to guarantee that.

1 A. I would agree with you that his vital signs had returned to
2 "normal."

3 Q. He was he now dynamically stable?

4 A. Correct.

15:01 5 Q. No ongoing signs of any sort of sepsis or anything that
6 could be associated with sepsis, by the time of discharge,
7 realizing he's had some treatment?

8 A. Keep in mind he met the well-accepted standard for the
9 diagnosis of sepsis, and that does not go away because his
15:01 10 vital signs returned to "normal."

11 Q. Okay. But, again, going back to my questions at the time
12 of discharge, he was doing well, with no signs of sepsis?

13 I get it.

14 You're saying that at the time he was admitted in
15:01 15 triage, when we take that, we take the lab values; but at this
16 point in time, no -- nothing's screaming "bacteria infection"
17 at the time he's discharged?

18 A. In terms of his physical findings and vital signs, no.

19 Q. You would agree that at the time Dr. Ortiz discharged
15:02 20 Mr. Running Crane, the standard of care certainly didn't
21 require antibiotics?

22 A. No, they did not.

23 Q. So you agree with me; right?

24 I just want to make sure the record's clear.

15:02 25 We had a bunch of double negatives in there.

1 Do you see that?

2 A. Yes, I do.

3 Q. Was it below the standard of care, in your mind, that
4 Dr. Foutch did not make efforts to contact the patient on
15:52 5 November 9th?

6 A. I believe the standard of care is for someone in that
7 emergency room group to follow up and contact -- make an effort
8 to contact the patient.

9 When I say if Dr. Foutch ideally would have done
15:52 10 this, I'm not saying it's the standard of care for him to do it
11 personally; but I think when he saw the electronic notification
12 of the positive blood culture result, that would have caused
13 him to shoot a text to his colleague, Dr. Ortiz, or to -- or to
14 look at the medical record to see if it had been addressed.

15:53 15 I would never delete a notification from my queue,
16 unless I know it had been taken care of.

17 Q. And you understand he didn't "delete" it?

18 A. Remember, that's why I said, delete the "notification," not
19 delete the "lab result."

15:53 20 Q. And I might be wrong on this, but it's my understanding he
21 didn't "delete" anything.

22 He acknowledged that the (indicating) that the lab
23 result was there and that -- and that it's like a calendar
24 invite, you know, when you see it and you accept it and it goes
15:53 25 away. You don't physically "delete" it.

1 Does that -- and I might be wrong on that, but that's
2 my understanding of your testimony.

3 A. I understand what you're saying; but with my knowledge of
4 multiple medical -- electronic medical records, I think it's
15:53 5 unlikely that acknowledging that he saw it would cause it to go
6 away.

7 It goes away when you say "this has been resolved,"
8 and there's a button that you push in most EMRs that says
9 "issue resolved, this may come off the list."

10 Q. And you haven't read the testimony of the folks from
11 Blackfeet Community Hospital on this issue.

12 A. Yes, I have.

13 Q. You didn't tell me about those depositions.

14 A. I was not under the impression that it was a "deposition."

15:54 15 I thought it was another submission where they talked
16 about the -- well, maybe I'm referring to Dr. Reznechez's
17 testimony -- deposition, in which they talked about "audits."

18 Q. Oh.

19 A. That may be what I'm thinking of.

15:54 20 Q. Okay. So you haven't read the depositions of the people
21 who work at Blackfeet Community Hospital that were taken in
22 this matter, other than Michael Furniss.

23 A. No, I haven't.

24 Q. To be fair.

15:54 25 So just to put a nice bow on that, to your opinion,

1 someone should have followed up with the culture result, but
2 you're not saying that Dr. Foutch necessarily breached the
3 standard of care.

4 Is that fair?

15:54 5 A. Yes.

6 Q. Okay. Why don't we take a break, and then I think I'm
7 going to let my colleagues ask you some questions, and then I
8 may have some follow-up afterwards; but why don't we take just
9 a quick break, and then I'll turn it over to them, I think.

15:55 10 TECHNICAL OPERATOR: We'll go off the record.

11 The time is 3:55.

12 (Recess taken at 15:55 on 12-04-2023.)

13 TECHNICAL OPERATOR: We're back on the record.

14 The time is 3:56.

15:56 15 MS. HAUSBECK: Dr. Billin, thank you for your time
16 today.

17 That's all I have for you right now.

18 THE DEPONENT: Thank you very much.

19 (Discussion held off the record.)

15:57 20 TECHNICAL OPERATOR: We'll go off the record.

21 The time is 3:56.

22 (Recess taken at 15:57 on 12-04-2023.)

23 TECHNICAL OPERATOR: We are back on the record.

24 The time is 4:01.

16:02 25 MS. CZIOK: Ben, would you like to jump in and ask